

AMENDED IN SENATE AUGUST 22, 2014

AMENDED IN ASSEMBLY MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 125

Introduced by Assembly Member ~~Wieckowski~~ *Eggman*

January 14, 2013

An act to amend Section ~~22212.5~~ of the Education Code, 65962 of the Government Code, relating to ~~state teachers' retirement~~ land use, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 125, as amended, ~~Wieckowski~~ *Eggman*. —~~State teachers' retirement; executive and managerial positions. Planning and land use: Sacramento-San Joaquin Valley.~~

Existing law prohibits a city or county within the Sacramento-San Joaquin Valley from approving a discretionary permit or other discretionary entitlement, or a ministerial permit that would result in the construction of a new residence, for a project that is located within a flood hazard zone, unless the city or county finds, based on substantial evidence in the record, that certain criteria is met.

This bill would prohibit a city or county within the Sacramento-San Joaquin Valley from approving a discretionary permit or entitlement that would result in the construction of a new building or construction that would result in an increase in allowed occupancy for an existing building for a project that is located within a flood hazard zone unless the city or county finds that the construction meets the criteria referenced above.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Sacramento-San Joaquin Valley.

This bill would declare that it is to take effect immediately as an urgency statute.

~~The State Teachers' Retirement Law, which is administered by the Teachers' Retirement Board, prescribes a comprehensive system of rights and benefits for its members, including disability benefits, retirement benefits, and death benefits. Existing law requires the Teachers' Retirement Board to fix the compensation of specified executive and managerial positions, including that of the chief executive officer, system actuary, general counsel, chief investment officer, and other investment officers and portfolio managers whose positions are designated as managerial, and to whom specified procedures and conflict-of-interest provisions apply.~~

~~This bill would add the positions of chief operating officer and chief financial officer to those positions for which the board is required to fix the compensation and would make the individuals holding those positions subject to those conflict-of-interest provisions. The bill would prohibit the salaries of the chief operating officer and the chief financial officer from exceeding 110% of the maximum salary payable to an investment director of the system, as specified. The bill would remove the positions of chief of staff and chief financial officer from those positions that are subject to conflict-of-interest provisions that limit postemployment appearances before, or communication to, the board. The bill would also require the board to report to the fiscal committees of the Legislature, as specified, on the cost savings realized because of these new positions.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~yes~~^{no}. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 65962 of the Government Code is*
- 2 *amended to read:*
- 3 65962. (a) Notwithstanding any other law, after the
- 4 amendments required by Sections 65302.9 and 65860.1 have
- 5 become effective, each city and county within the Sacramento-San
- 6 Joaquin Valley shall not approve a discretionary permit or other
- 7 discretionary entitlement, ~~or a ministerial permit entitlement~~ that
- 8 would result in the construction of a new ~~residence~~, *building or*

1 *construction that would result in an increase in allowed occupancy*
2 *for an existing building, or a ministerial permit that would result*
3 *in the construction of a new residence, for a project that is located*
4 *within a flood hazard zone unless the city or county finds, based*
5 *on substantial evidence in the record, one of the following:*

6 (1) The facilities of the State Plan of Flood Control or other
7 flood management facilities protect the project to the urban level
8 of flood protection in urban and urbanizing areas or the national
9 Federal Emergency Management Agency standard of flood
10 protection in nonurbanized areas.

11 (2) The city or county has imposed conditions on the permit or
12 discretionary entitlement that will protect the project to the urban
13 level of flood protection in urban and urbanizing areas or the
14 national Federal Emergency Management Agency standard of
15 flood protection in nonurbanized areas.

16 (3) The local flood management agency has made adequate
17 progress on the construction of a flood protection system which
18 will result in flood protection equal to or greater than the urban
19 level of flood protection in urban or urbanizing areas or the national
20 Federal Emergency Management Agency standard of flood
21 protection in nonurbanized areas for property located within a
22 flood hazard zone, intended to be protected by the system. For
23 urban and urbanizing areas protected by project levees, the urban
24 level of flood protection shall be achieved by 2025.

25 (4) The property in an undetermined risk area has met the urban
26 level of flood protection based on substantial evidence in the
27 record.

28 (b) The effective date of amendments referred to in this section
29 shall be the date upon which the statutes of limitation specified in
30 subdivision (c) of Section 65009 have run or, if the amendments
31 and any associated environmental documents are challenged in
32 court, the validity of the amendments and any associated
33 environmental documents has been upheld in a final decision.

34 (c) This section does not change or diminish existing
35 requirements of local flood plain management laws, ordinances,
36 resolutions, or regulations necessary to local agency participation
37 in the national flood insurance program.

38 *SEC. 2. The Legislature finds and declares that a special law*
39 *is necessary and that a general law cannot be made applicable*
40 *within the meaning of Section 16 of Article IV of the California*

1 *Constitution because of the unique land use planning*
2 *considerations relative to flood hazard zones in the*
3 *Sacramento-San Joaquin Valley.*

4 *SEC. 3. This act is an urgency statute necessary for the*
5 *immediate preservation of the public peace, health, or safety within*
6 *the meaning of Article IV of the Constitution and shall go into*
7 *immediate effect. The facts constituting the necessity are:*

8 *In order to proceed with the reconstruction or remodel of*
9 *buildings in downtown Stockton that are a public hazard, it is*
10 *necessary that the bill take effect immediately.*

11 ~~SECTION 1. Section 22212.5 of the Education Code is~~
12 ~~amended to read:~~

13 ~~22212.5. (a) Except as otherwise provided in subdivision (d),~~
14 ~~this section shall apply to the following positions in the system:~~
15 ~~chief executive officer, chief operating officer, chief financial~~
16 ~~officer, system actuary, general counsel, chief investment officer,~~
17 ~~and other investment officers and portfolio managers whose~~
18 ~~positions are designated managerial pursuant to Section 18801.1~~
19 ~~of the Government Code.~~

20 ~~(b) (1) Notwithstanding Sections 19816, 19825, 19826, 19829,~~
21 ~~and 19832 of the Government Code, the board shall fix the~~
22 ~~compensation for the positions specified in subdivision (a). In so~~
23 ~~doing, the board shall be guided by the principles contained in~~
24 ~~Sections 19826 and 19829 of the Government Code, consistent~~
25 ~~with its fiduciary responsibility to its members to recruit and retain~~
26 ~~highly qualified and effective employees for these positions.~~

27 ~~(2) The salary for the chief operating officer and the chief~~
28 ~~financial officer fixed pursuant to paragraph (1) shall not exceed~~
29 ~~110 percent of the maximum salary payable to an investment~~
30 ~~director of the system.~~

31 ~~(c) When a position specified in subdivision (a) is filled through~~
32 ~~a general civil service appointment, it shall be filled from an~~
33 ~~eligible list based on an examination that was held on an open~~
34 ~~basis, and tenure in those positions shall be subject to the provisions~~
35 ~~of Article 2 (commencing with Section 19590) of Chapter 7 of~~
36 ~~Part 2 of Division 5 of Title 2 of the Government Code. In addition~~
37 ~~to the causes for action specified in that article, the board may take~~
38 ~~action under the article for causes related to its fiduciary~~
39 ~~responsibility to its members, including the employee's failure to~~
40 ~~meet specified performance objectives.~~

1 ~~(d) An individual who held a position designated in subdivision~~
2 ~~(a), or was a member of the board, a deputy chief executive officer,~~
3 ~~or was in an equivalent senior management position, shall not, for~~
4 ~~a period of two years after leaving that position, for compensation,~~
5 ~~act as agent or attorney for, or otherwise represent, any other~~
6 ~~person, except the state, by making any formal or informal~~
7 ~~appearance before or by making any oral or written communication~~
8 ~~to the board, or any officer or employee thereof, if the appearance~~
9 ~~or communication is made for the purpose of influencing~~
10 ~~administrative or legislative action or any action or proceeding~~
11 ~~involving the issuance, amendment, awarding, or revocation of a~~
12 ~~permit, license, grant, contract, or sale or purchase of goods or~~
13 ~~property.~~

14 ~~(e) Twelve months after filling the chief operating officer~~
15 ~~position or chief financial officer position, the board shall report~~
16 ~~to the fiscal committees of the Legislature, in compliance with~~
17 ~~Section 9795 of the Government Code, on the improvements and~~
18 ~~cost savings realized because of these new positions. In particular,~~
19 ~~the board shall report on savings resulting from reduced contracting~~
20 ~~and greater use of internal resources. The board shall continue to~~
21 ~~report annually thereafter.~~